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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DIEGO SANTIAGO,

Index No. 06 CV 5422 (CLB) (GAY)

Plaintiff,

NOTICE OF MOTION

-against-

THE VILLAGE OF OSSINING POLICE
DEPARTMENT,

Defendant.

PLEASE TAKE NOTICE that upon the annexed Affidavit of Chief Joseph Burton, Jr., with exhibits annexed thereto, the Declaration of Stephen A. Fuchs, with exhibits attached thereto, Defendant's Local Rule 56.1 Statement of Undisputed Facts, the accompanying Memorandum of Law, and all of the pleadings and proceedings heretofore had herein, Defendant the Village of Ossining Police Department ("Defendant"), by its attorneys Littler Mendelson, P.C., will move this Court before the Honorable Charles L. Brieant, United States District Court Judge, at the United States Courthouse, 300 Quarropas Street, White Plains, New York, on February 15, 2008 at 10 o'clock in the forenoon, for an Order pursuant to Rule 56 of the Federal Rules of Civil Procedure, granting summary judgment with prejudice in favor of Defendant on the grounds that there are no genuine issues as to any material fact, and Defendant is entitled to judgment as a matter of law, and further, granting to Defendant its costs, and such other and further relief and the Court may deem just and proper.

Date: December 13, 2007
New York, New York

/s/

Stephen A. Fuchs (SF-5407)
LITTLER MENDELSON
A Professional Corporation
885 Third Avenue, 16th Floor
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Attorneys for Defendant
Village of Ossining Police Department

TO: Paul Cisternino, Esq.
701 Westchester Avenue,
Suite 308W
White Plains, NY 10604
Attorney for Plaintiff

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DIEGO SANTIAGO,

Index No. 06 CV 5422 (CLB) (GAY)

Plaintiff,

CERTIFICATE OF SERVICE

-against-

THE VILLAGE OF OSSINING POLICE
DEPARTMENT,

Defendant.

I hereby certify that on December 13, 2007, I electronically filed the foregoing Notice of Motion and the accompanying Affidavit of Chief Joseph Burton, Jr., with exhibits annexed thereto, the Declaration of Stephen A. Fuchs, with exhibits annexed thereto, Defendant's Rule 56.1 Statement of Undisputed Facts, and Defendant's Memorandum of Law in Support of Motion for Summary Judgment, which sent electronic notification to the following counsel of record:

Paul Cisternino, Esq.
701 Westchester Avenue,
Suite 308W
White Plains, NY 10604
Attorney for Plaintiff

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of December 2007, in New York, New York.

/s/
Stephen A. Fuchs